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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,251	09/19/2003	Paul Feucht	Uni.PA.001	6945

7590 09/14/2005

G. Alan Witte
Law Offices of G. Alan Witte
Suite 920
6750 West Loop South
Bellaire, TX 77401

EXAMINER

GREEN, BRIAN

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/665,251	Applicant(s) FEUCHT ET AL.	
	Examiner Brian K. Green	Art Unit 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-8,11-15,17 and 20-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-8,11-15,17,20-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 4,5,9,10,16,18,19, and 27, canceled claims must be indicated by only the claim number and status, without presenting the text of the claims, see 37 CFR 1.121.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3,6-8,11-15,17, and 20-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuller et al. (U.S. Patent No. 5,605,414) in view of Brach, Jr. et al. (U.S. Patent No. 6,233,858), Lackomar (U.S. Patent No. 6,237,267) and Ruiz (U.S. Patent No. 6,079,135).

Fuller shows in figures 1-6 a device comprising a cylindrically shaped foam insert (11) capable of being placed on a hose, a covering (13) adapted to at least substantially cover the foam insert, and an advertising display (50). Fuller et al. does not disclose placing the device on a hose, placing pockets on the cover, and attaching at least one reflective strip on the covering. Brach, Jr. et al. shows in figure 1 the idea of attaching an advertising display device to a hose (300). In view of the teachings of Brach, Jr. et al. it would have been obvious to one in the art to modify Fuller et al. by attaching the device to a hose since this would allow the device of Fuller

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et al. to be used on a wider range of devices for advertising purposes as well as to protect the hose from damage. Fuller et al. shows in figure 5 that the cover includes a pocket (53). Fuller et al. does not disclose placing two or more pockets on the cover. Lackomar shows in figures 1 and 2 a display that includes a plurality of pockets (20). In view of the teachings of Lackomar it would have been obvious to one in the art to modify Fuller et al. by providing a plurality of pockets since this would allow more information to be held and displayed by the cover. Ruiz shows in figures 1-3 a display that includes a reflective strip (7,14) on the cover. In view of the teachings of Ruiz it would have been obvious to one in the art to modify Fuller et al. by attaching a reflective strip to the cover since this would allow the cover to be seen in a better manner during low light conditions. In regard to claim 2, Fuller shows in figures 1-6 that the cover is attached to the foam insert. In regard to claims 3 and 15, Fuller shows in figure 6 a zipper (63) used to attach the cover. In regard to claims 7,8, 13, and 14, Fuller shows in figure 2 that the foam insert includes a hollow core and a slit (where the lead line for numeral 20 is directed). In regard to claims 11 and 20, Fuller et al. does not disclose whether the covering (53) is glossy. Lackomar discloses the idea of making the covers (20) from a transparent material which would have some glossiness. In view of the teachings of Lackomar it would have been obvious to one in the art to modify Fuller et al. by making the covering (53) glossy since this would allow the subject matter being displayed within the pocket formed by the covering to be seen, i.e. making the covering transparent. In regard to claim 12, Fuller discloses the use of first securing means (adhesive 31 (column 3, lines 13-15) or means 16 or means 63) for securing the covering the foam insert and a second securing means (adhesive 31 (column 3, lines 1-2) or means 16 or means 63). In regard to claim 17, Fuller et al. discloses the use of cable ties (16), see column 3,

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lines 21-23. In regard to claims 6 and 23, Fuller et al. discloses the use of cable ties (16), see column3, lines 21-23.

Response to Arguments

Applicant's arguments filed June 29, 2005 have been fully considered but they are not persuasive.

The applicant argues that it would take four references to reject the currently amended independent claims which is simply to many to combine to fabricate an obviousness rejection. In response to applicant's argument that the examiner has combined an excessive number of references, reliance on a large number of references in a rejection does not, without more, weigh against the obviousness of the claimed invention. See *In re Gorman*, 933 F.2d 982, 18 USPQ2d 1885 (Fed. Cir. 1991).

The applicant argues that there is no teaching or suggestion to combine the four references located anywhere within the four patents and the four references would not yield the present invention unless impermissible hindsight reconstruction was used. The examiner disagrees since the Fuller et al. patent teaches the use of a device that is attached to a tubular member at a gas station to provide protection to the tubular member as well as to allow advertising indicia to be attached to the tubular member. Fuller et al. simply fails to define the idea of attaching the device to a house. Brach, Jr. et al. teaches the use of a device that is attached to a hose (tubular member) at a gas station for advertising purposes. The teachings of Brach, Jr. et al. provides the advantage of allowing the device of Fuller et al. to be used on a wider range of tubular members located at a gas station. Fuller et al. discloses the use of a pocket on the cover. The Lackomer patent is simply being used to show that it is known to place

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multiple pockets onto a sheet which is secured to a support surface to achieve the advantage of allowing more information to be held and displayed by the cover. The Ruiz patent is being used to show that it is known to attach a reflective strip to an article supported on a hose in order to achieve the advantage of allowing the cover to be seen in a better manner during low light conditions.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (571) 272-6644. The examiner can normally be reached on M-F 7am-3:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


BRIAN K. GREEN
PRIMARY EXAMINER

Bkg
Sept. 9, 2005